11	п		
1	EDMUND G. BROWN JR.		
2	Attorney General of California GREGORY J. SALUTE		
3	Supervising Deputy Attorney General Terrence M. Mason		
	Deputy Attorney General		
4	State Bar No. 158935 300 So. Spring Street, Suite 1702		
5	Los Angeles, CA 90013 Telephone: (213) 897-6294		
6	Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BEFORE THE BOARD-OF REGISTERED NURSING		
9	DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against: Ca	se No. 2010- 497	
12	DEANNA LYNN MERZ	30 110.	
	6446 Merlot Lane		
13	Paso Robles, CA 93446	CCUSATION	
14	Registered Nurse License No. 673197		
15	Respondent.		
16			
17	Complainant alleges:		
18	PARTIES		
19	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her		
20	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department		
21	of Consumer Affairs.		
22	2. On or about February 7, 2006, the Board of Registered Nursing ("Board") issued		
23	Registered Nurse License No. 673197 to Deanna Lynn Merz ("Respondent"). The Registered		
24	Nurse License was in full force and effect at all times relevant to the charges brought herein and		
25	will expire on August 31, 2011, unless renewed.		
26	JURISDICTION		
27	3. This Accusation is brought before the Board, under the authority of the following		
28	laws. All section references are to the Business and Professions Code unless otherwise indicated.		

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STATUTORY PROVISIONS

- 4. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 6. Section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

. . . .

- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
 - 7. Section 2762 states:

"In addition other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

. . . .

- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a)

of this section, in which event the record of the conviction is conslusive evidence thereof."

8. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

10. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially-Related Crime)

11. Respondent is subject to disciplinary action under section 2761, subdivision (f) and 490, as defined in California Code of Regulations, title 16, section 1444, in that on or about October 03, 2008, Respondent was convicted of one misdemeanor count of violating Penal Code section 273 (a) (b) [willful cruelty to a child], in the criminal proceeding entitled *The People of the State of California v. Deanna Lyn Merz* (Super. Ct. San Luis Obispo County, Case No. M000421547). Respondent was placed on probation for three years, and fined. The circumstances surrounding the conviction are that on or about August 7, 2008, at approximately 11:30 a.m., two San Luis Obispo Sheriff's Deputies were dispatched to Respondent's residence regarding a report of a female possibly intoxicated and unable to care for her two minor children. The Deputies found Respondent intoxicated and passed out in a beach chair, nude from the waist down, in her open garage. Her children, ages 7 and 11, were found unsupervised inside the

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1	residence. The 7-year-old told officers that her mother had been drinking Tequila and this type of	
2	activity occurred routinely.	
3	SECOND CAUSE FOR DISCIPLINE	
4	(Dangerous Use of Alcohol)	
5	12. Respondent is subject to disciplinary action under section 2761, subdivision (a), as	
6	defined in section 2762, subdivision (b), in that on or about August 7, 2008, Respondent used	
7	alcoholic beverages to an extent or in a manner dangerous or injurious to herself and her minor	
8	children, when she passed out from being intoxicated, leaving her minor children uncared for.	
9	Complainant refers to, and by this reference incorporates, the allegations set forth above in	
1.0	paragraph 11, as though set forth fully.	
11	THIRD CAUSE FOR DISCIPLINE	
12	(Conviction involving the Consumption of Alcohol)	
13	13. Respondent is subject to disciplinary action under section 2761, subdivision (a), as	
14	defined in section 2762, subdivision (c), in that on or about August 7, 2008, Respondent was	
15	convicted of a crime involving the consumption of alcohol. Complainant refers to, and by this	
16	reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.	
17	PRAYER	
18	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
19	and that following the hearing, the Board issue a decision:	
20	1. Revoking or suspending Registered Nurse License No. 673197, issued to Respondent	
21	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and	
22	enforcement of this case, pursuant to section 125.3; and	
23	3. Taking such other and further action as deemed necessary and proper.	
24		
25	DATED: 4/13/10 Jouise C. Bailey	
26	LOUISE R. BAILEY, M.ED., RN Interim Executive Officer	
27	Board of Registered Nursing Department of Consumer Affairs	
28	State of California Complainant	